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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,538	07/09/2003	Tatsuya Masuki	59549 (71360)	1953
21874	7590	12/04/2006	EXAMINER	
EDWARDS & ANGELL, LLP			AUGHENBAUGH, WALTER	
P.O. BOX 55874			ART UNIT	
BOSTON, MA 02205			PAPER NUMBER	
			1772	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,538

Applicant(s)

MASUKI ET AL.

Examiner

Walter B. Aughenbaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement of Applicant's Amendments

1. The amendments made in claim 1 in the Amendment filed October 20, 2006 (Amdt. C) have been received and considered by Examiner.

REPEATED REJECTIONS

2. The 35 U.S.C. 112, first paragraph rejection of claims 1, 4 and 5 that was repeated in paragraph 4 of the previous Office Action mailed April 24, 2006 has been repeated for the reasons previously made of record.
3. The 35 U.S.C. 103 rejection of claims 1-7 and 10 that was repeated in paragraph 5 of the previous Office Action mailed April 24, 2006 has been repeated for the reasons previously made of record, and for the following reasons that address the amendments made in claim 1 in Amdt. C: Bird teaches the container is injection molded (col. 12, lines 44-56). Since Bird teaches that the container is injection molded (col. 12, lines 44-56), the container body (each pocket, item 112, formed in strip portion, item 102) is produced by injecting molten thermoplastic resin into a cavity of a mold assembly (col. 12, lines 44-56), and is therefore formed by injection molding (col. 12, lines 44-56). A container body (each pocket, item 112, formed in strip portion, item 102) that is produced by injecting molten amorphous thermoplastic resin into a cavity of a mold assembly results from the proposed combination of references for the reasons previously made of record.

Response to Arguments

4. Applicant's arguments regarding the 35 U.S.C. 112, first paragraph, rejection of claims 1, 4 and 5 have been fully considered but are not persuasive.

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The issues raised in previous Office Actions have not been addressed in Applicant's arguments on pages 4-7 of Amdt. C. Office Action mailed March 23, 2005, pages 3-4; Office Action mailed November 2, 2005, pages 3 and 9; Office Action mailed April 24, 2006, page 3; Advisory Action mailed August 11, 2006, pages 2-3.

Applicant has not convincingly shown that the three properties are indeed distinguishable properties. It is unclear what portion of the subject matter of the discussion in the first paragraph of page 5 of Amdt. C is actually supported in the specification. Exhibit B (filed August 11, 2006) does not show that "surface waviness" and "sink mark depth" are distinguishable from each other and that each are distinguishable from "flatness".

Applicant's citation of patents that use the terms "flatness", "surface waviness" and "sink mark" (without "depth") on pages 5, 6 and 7, respectively of Amdt. C does not address the issues raised in previous Office Actions: citation of different patents, each of which use only one of the "flatness", "surface waviness" and "sink mark" (without "depth") terms, does not show that "surface waviness" and "sink mark depth", as both are described in Applicant's specification, are distinguishable from each other and that each are distinguishable from "flatness" as described in Applicant's specification.

Properties having the names "surface waviness" and "sink mark depth" could not be located in the attached copy of JIS 0601-2001, and Applicant has not explained how/where these properties are disclosed in JIS 0601-2001. Applicant has only cited sections 3.1.4 and 3.1.5 of JIS 0601-2001, which do not discuss "surface waviness", "sink mark depth" or "flatness". Applicant's statement that "surface waviness" and "sink mark depth" are "used consistent with the description in the art" is not supported. Applicant has conspicuously not included a JIS

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standard for Applicant's "flatness" property. Applicant has not shown how "flatness" is distinguished from "surface waviness".

Applicant's statement on page 7 of Amdt. C that each of the properties "clearly differ from each other" is not supported.

5. Applicant's arguments regarding the 35 U.S.C. 103 rejection of claims 1-7 and 10 have been fully considered but are not persuasive.

Applicant argues that Bird does not teach that the container body and recessed flat portion are formed by injection molding, but Bird teaches that the container body and recessed flat portion (bottom wall 116) are formed by injection molding since Bird teaches that the web 200 of thermoplastic polymer is supplied as a preformed sheet by continuous injection molding to a mold or die 204 that thermoforms the web (col. 12, lines 46-56). Since the pockets 112 are formed from web 200 (col. 12, lines 44-56), and since bottom wall 116 is the bottom wall of each pocket 112 (col. 6, line 26), the container body (each pocket, item 112) and recessed flat portion (bottom wall 116) of Bird are formed by injection molding. Consequently, the container taught by Bird, Satake et al. and Sylvester et al. as proposed in the 35 U.S.C. 103 rejection of claims 1-7 and 10 of record comprises a container body and recessed flat portion that are formed by injection molding. The last full sentence on page 8 of Amdt. C does not follow from the sentence immediately preceding that sentence for the reasons discussed above.

In regard to the sentence bridging pages 8 and 9 of Amdt. C, the Office Action does not state that Bird alone teaches that the container is formed by injecting molten amorphous thermoplastic resin into a cavity of a mold assembly.

Applicant's statement in the first full paragraph of page 9 of Amdt. C is not supported.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is to 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

11/27/06

WBA



JENNIFER MCNEIL
SUPERVISORY PATENT EXAMINER
11/27/06